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SEVENTH JUDICIAL CIRCUIT
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CONFERENCE OF CIRCUIT JUDGES
COMMITTEE ON COMPLEX LITIGATION

NOTES FROM AUGUST 17, 2021 MEETING
MEDICAL MALPRACTICE WORK GROUP

Time: 4:30-6:00 pm
Place: Virtual (Zoom)
Attendees:

Judge Beckstead, Chair, Chief Judge Wicomico County Circuit Court
Judge Ensor, Associate Judge, Baltimore County Circuit Court
Judge J. Rubin, Associate Judge, Baltimore City Circuit Court
Hon. Charlene Notarcola, Clerk of Circuit Court for Cecil County
Andrew Burnett, Esq.
Mairi Maguire, Esq.
Michael Nakamura, Esq.

Staff:
Linda Fallowfield, Esq.

Next Work Group Meeting October 19, 2021, 4:30-6:00 pm, via zoom.

Judge Beckstead opened the meeting with a discussion on the scheduling orders that had been submitted by the Work Group (WG) members. She asked which scheduling order was most preferred?

Some WG members stated that the Prince George County scheduling order was preferred because it was blank and could be specifically tailored to the specifics of the case. It also permitted the attorneys to work out a mutually agreeable schedule. The Court would only become involved if the attorneys could not work out a schedule. This could forestall the need for extensions. The Baltimore County scheduling order was also viewed positively for the same reasons. Other WG members stated that they had no bad experiences with a court generated scheduling order as they were able to get extensions later. The consensus of the WG was that it was better to work with counsel up front to set scheduling order dates rather than seek extensions later.

Judge Beckstead then shifted the discussion to whether trial dates should be set at the start (with key dates for motions and discovery backed into the trial date) or should trial dates be set later in the litigation?

WG members discussed their struggles in this regard noting that counsel is often double booked with multiple trials in different circuits. A discussion then arose about the case time standard of 18 months for medical malpractice cases. (with one judge noting that the case time standard can be extended with complex cases). The WG generally agreed that it was good to set the trial date up front and backfill all other motions and timelines into it. There was some disagreement over the utility of the 18-month case time standards with some WG members in favor of keeping the 18-month standard while others WG members were in favor of changing the case time standard to a longer time. WG members also discussed formalizing an exchange of records early in the litigation. WG members also discussed the need to reform the health claims process.

The discussion then turned to the timing of Daubert and other types of motions in relation to the trial date. One WG member noted that it is a good idea to for Daubert and summary judgement motions to be wrapped up 60 days before trial. Another WG member expressed the need for uniformity in the circuits for these timeframes.

The meeting ended with the Chair directing the Coordinator to place on the agenda for the October 14, 2021 Committee on Complex Litigation meeting the WG recommendation that a trial date be set at the start of litigation either by scheduling conference or agreement of counsel.

Due Date

Action Items for the WG Members:

- 1) Bar WG Members: develop recommendations for scheduling orders. October 8, 2021
- 2) Bar WG Members: develop recommendations for case time standards. October 8, 2021

Action Items for Staff:

- 1) Add to agenda for Committee on Complex Litigation meeting on October 14th meeting the WG recommendation that for MEDMAL litigation, a trial date be set up front either by scheduling conference or agreement of counsel.